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December 19, 2023
Report 2023-112

FACT SHEET

Grant Parks *California State Auditor*

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Mobilehome Residency Law Protection Program Report

The California Department of Housing and Community Development Must Improve Its Oversight of the Program

Background

There are nearly 4,500 mobilehome parks in California, totaling more than 360,000 spaces or lots. Mobilehomes and trailers are home to about 3 percent of the State's population, and many of these Californians are older and have lower incomes than the overall population. In July 2020, the California Department of Housing and Community Development (HCD) became responsible for administering a new program called the Mobilehome Residency Law Protection Program (program). The program allows mobilehome owners to submit complaints about alleged violations of the Mobilehome Residency Law (residency law) to HCD. In response, HCD must identify the most severe allegations and, in certain circumstances, forward those allegations to a contracted nonprofit legal service provider (LSP) that can assist the homeowner.

Our Key Recommendations

- To ensure that HCD is able to effectively monitor the LSPs, the Legislature should amend state law to require LSPs to permit HCD access to confidential information, currently protected by attorney-related privileges, regarding the status of each case and the services provided to complainants.
- The Legislature should also suspend the program's $10 per lot fee until the program's sunset date of January 1, 2027, to ensure that HCD has enough funding to effectively manage the program without accumulating excessive funding.
- HCD should begin regular surveys of complainants to assess whether LSPs are in regular communication with the complainants and to determine if complainants have concerns about the LSPs' services.
- HCD should monitor updates that LSPs provide to detect any inappropriate denial of services and respond immediately to correct such denials.

Key Findings

- Changes to state law that will take effect on January 1, 2024, will likely result in shifting responsibility for handling all program-eligible complaints to the LSPs—a departure from the current requirement that HCD refer only the most severe complaints to LSPs.
- Although LSPs are responsible for providing services to complainants, attorney-related privileges limit HCD's ability to effectively oversee the work done by these contractors.
  - » The privileges prevent the LSPs from providing information such as the number of hours they work on a complaint or investigations they perform to assist complainants. HCD needs these data to determine whether the LSPs are effectively serving referred complainants.
- HCD did not prevent some LSPs from inappropriately denying services to complainants. Three LSPs rejected 18 referred complainants because the LSPs believed that the complainants' incomes made them ineligible for services, or because complainants would not answer questions about their incomes, despite the program having no income eligibility requirement.
- The program is funded by an annual $10 per lot fee paid by mobilehome park owners. HCD has amassed $8.3 million in unspent funds as of June 30, 2023.
  - » We modeled different scenarios and determined that suspending the fee from fiscal year 2024–25 through the program's sunset date in January 2027 would reduce the unspent fund balance and still allow HCD sufficient funding to address complaints.

Mobilehome Residency Law Protection Program

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December 2023

REPORT 2023-112

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Grant Parks *State Auditor*

Mike Tilden *Chief Deputy*

December 19, 2023
2023-112

The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As directed by the Joint Legislative Audit Committee, my office conducted an audit of the California Department of Housing and Community Development's (HCD) administration of the Mobilehome Residency Law Protection Program (program). The program allows mobilehome owners to submit complaints about alleged violations of the Mobilehome Residency Law to HCD. In response, HCD must identify the most severe allegations and, in certain circumstances, forward those allegations to a contracted nonprofit legal service provider (LSP) that can assist the homeowner. Our audit concluded that HCD must improve its oversight of the program.

Although LSPs are responsible for providing services to complainants, attorney-related privileges limit HCD's ability to effectively oversee the work done by these contractors. The privileges prevent the LSPs from providing information—such as the number of hours they work on a complaint or investigations they perform to assist complainants—that HCD needs to determine if the LSPs are serving referred complainants. We also found that HCD did not take immediate action when LSPs notified it that they were denying services to complainants based on incorrect eligibility criteria and that HCD's program data are not of good enough quality to allow HCD to report accurately or efficiently to the Legislature as required.

The program is funded by an annual $10 per lot fee paid by mobilehome park owners. Although we determined that HCD generally spent program funding appropriately, it has spent less than 40 percent of the program's revenue it has collected and has consequently accumulated $8.3 million in unspent funds. Even if HCD's annual costs grow, the amount of unspent funds will likely continue to grow if the Legislature does not reduce the fee. To assess the appropriateness of the program's fee, we modeled different scenarios and determined that suspending the fee from fiscal year 2024–25 through the program's sunset date in January 2027 would reduce the unspent fund balance and still allow HCD sufficient funding to address complaints.

Respectfully submitted,

GRANT PARKS
California State Auditor

Selected Abbreviations Used in This Report

CASAS	Codes and Standards Automated System
HCD	California Department of Housing and Community Development
LSP	Legal service provider

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Summary

There are nearly 4,500 mobilehome parks in California, totaling more than 360,000 spaces or lots. The Mobilehome Residency Law (residency law) sets the rules for issues related to mobilehome parks—including rules governing rent increases and utilities fees. In July 2020, the California Department of Housing and Community Development (HCD) became responsible for administering a new program called the Mobilehome Residency Law Protection Program (program). The program exists to coordinate the resolution of mobilehome homeowners' complaints alleging violations of the residency law and, when applicable, to connect those homeowners to further resources, including legal service providers (LSPs), which are nonprofit law firms that contract with HCD to provide legal services. State law requires HCD to contract with one or more LSPs and to refer certain unresolved complaints to a contracted LSP for possible enforcement action. For this audit, we reviewed HCD's administration of the program, and we have drawn the following conclusions:

As the Program Changes, HCD Must Improve Its Program Oversight

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Changes to state law that will take effect on January 1, 2024, will likely result in shifting responsibility for handling all program-eligible complaints to the LSPs—a departure from the current requirement that HCD refer only the most severe complaints to LSPs. However, attorney-related privileges prevent LSPs from sharing confidential information with HCD about the services they provide to complainants. As a result, HCD is unable to effectively monitor the progress of work under the LSP contracts, because it lacks certain information about complaints, such as the activities that LSPs are undertaking to help complainants. The Legislature could address this impediment and, by doing so, provide HCD with the ability to effectively oversee the program. Nonetheless, we found that even within its existing authority, HCD did not prevent some LSPs from inappropriately denying services to complainants. In fact, three of the eight LSPs to whom HCD refers complaints rejected 18 of the 275 referred complaints because the LSPs believed the complainants' incomes made the complainants ineligible for services or because the complainants refused to answer questions about their incomes, even though the program has no income eligibility requirement. HCD did not act to correct these inappropriate rejections in the nearly two years since the LSPs first notified HCD of a rejection. We also found that HCD has not maintained program data in a manner that would allow it to easily identify the total number of complaints. Nor does HCD maintain data containing uniform information about the outcomes of complaints. Because of this problem, HCD has reported inaccurate outcome information to the Legislature.

Our recommendations begin on page 18.

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In Light of a Significant Amount of Unspent Program Funds, the Legislature Should Suspend the Annual Program Fee

To fund the program, state law requires HCD to collect an annual $10 fee from mobilehome parks for each of their mobilehome lots. Although we determined that HCD generally spent program funding appropriately, its spending has significantly lagged behind the revenue the fees generate. As of June 2023, the program had collected a total of $13.4 million in fee revenue and spent a total of $5.1 million. As a result, it has amassed unspent funds of $8.3 million, which is equal to more than 60 percent of the revenue collected. This surplus of unspent funds results from incorrect estimates of the revenue the program would need and the volume of complaints HCD would receive. When the program was established, HCD estimated that the program would annually receive an average of 6,500 complaints and would refer an average of 4,100 complaints to LSPs each year. However, the program has received only an average of 1,005 complaints per year and referred an average of 147 complaints to LSPs. Upcoming changes to state law will likely increase the number of complaints handled by LSPs and therefore increase expenditures. However, even in that scenario, HCD will continue to accumulate unspent funds, something it should not do if it does not need that revenue to administer the program. To assess the appropriateness of the program's fee, we created several scenarios to model how different circumstances affect the program's surplus. In a scenario in which the annual fee remains at $10 per lot, the unspent fund balance is projected to grow. We found that suspending the annual fee until the program's next sunset date would reduce the unspent fund balance while still allowing sufficient funding for HCD to address complaints.

Our recommendations are on page 26.

Agency Comments

HCD generally agreed with the recommendations we made to improve its administration of the program and indicated it would take steps to implement them. However, it disagreed with our recommendation that the Legislature suspend the program's $10 fee.

Introduction

Background

Mobilehomes and trailers are home to about 3 percent of the State's population. Many of these Californians are older and have lower incomes than the overall population. The most recently available U.S. Census data report that approximately one-third of Californians who live in mobilehomes or trailers are 60 years old or older and that Californians of any age who live in mobilehomes or trailers generally have average annual household incomes below those of Californians of similar ages who do not live in mobilehomes. Figure 1 provides general background information about mobilehome parks and the ways the State has addressed certain complaints by homeowners about those parks.

The Mobilehome Residency Law (residency law) establishes the rules governing the relationship between the mobilehome park owners and homeowners—including rules governing rent increases and utilities fees, as the text box shows. In July 2020, the California Department of Housing and Community Development (HCD) became responsible for administering a new program, the Mobilehome Residency Law Protection Program (program). Assembly Bill 3066, which was enacted in 2018, created the program and required HCD, beginning in July 2020, to provide assistance in taking complaints and to help resolve and coordinate the resolution of those complaints from homeowners related to the residency law. The law also authorizes HCD to refer matters not within its jurisdiction to the appropriate enforcement agency. Further, when applicable, the law permits HCD to refer complainants to a nonprofit legal service provider (LSP) to assess the complaint and provide services if warranted. An LSP is a nonprofit law firm incorporated and operated in California, with the primary purpose and function of providing free legal services to low-income individuals.

Elements of Mobilehome Parks Governed by the Residency Law

The residency law establishes rules regarding the following matters, among others:

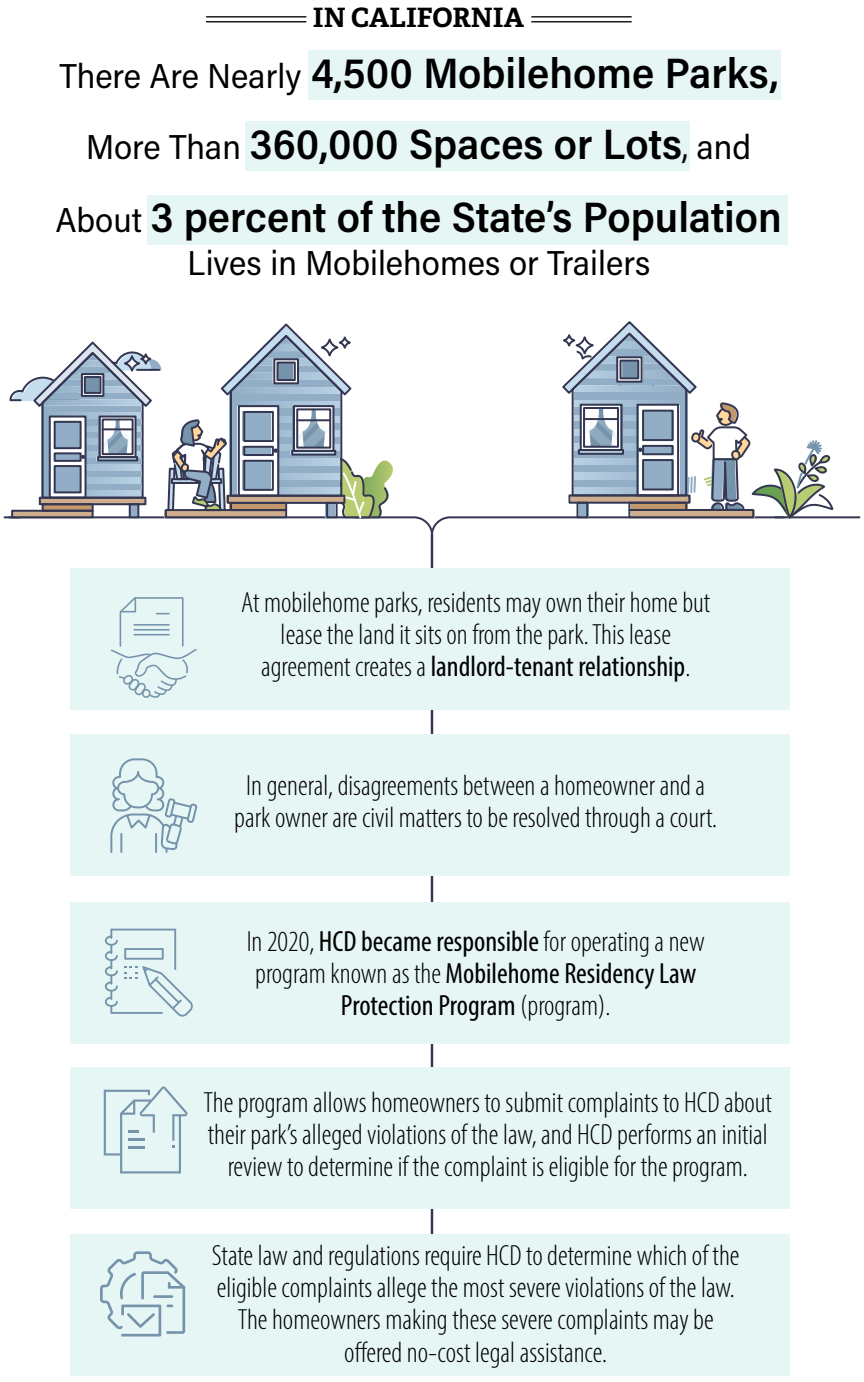
- Rental agreement provisions about common areas, services provided, and length of tenancy.
- Park management's obligations to follow park rules and notices about changes to park rules.
- Rent increases and the introduction of new fees.
- Fees and notices pertaining to utilities.
- Time frames and rules for park management's meeting with homeowners when the meeting is requested in writing.

Source: Mobilehome Residency Law.

To support the program, state law in January 2019 required HCD to begin assessing and collecting an annual $10 fee from owners of mobilehome parks for each of their permitted mobilehome lots.[1] State law permits park owners to pass on this fee to homeowners within the park, provided that the park owners identify the fee separately from other charges. HCD must deposit the revenue from this fee into the Mobilehome Dispute Resolution Fund (program fund), which was established to support the program.

[1] State law and regulations make it unlawful to operate a mobilehome park without a current permit to operate. The permit to operate specifies the total number of lots approved for a park.

Figure 1
HCD Is Responsible for Administering the Program to Help Mobilehome Homeowners Resolve Residency Law Complaints


IN CALIFORNIA
There Are Nearly 4,500 Mobilehome Parks,
More Than 360,000 Spaces or Lots, and
About 3 percent of the State's Population
Lives in Mobilehomes or Trailers
At mobilehome parks, residents may own their home but lease the land it sits on from the park. This lease agreement creates a landlord-tenant relationship.
In general, disagreements between a homeowner and a park owner are civil matters to be resolved through a court.
In 2020, HCD became responsible for operating a new program known as the Mobilehome Residency Law Protection Program (program).
The program allows homeowners to submit complaints to HCD about their park's alleged violations of the law, and HCD performs an initial review to determine if the complaint is eligible for the program.
State law and regulations require HCD to determine which of the eligible complaints allege the most severe violations of the law. The homeowners making these severe complaints may be offered no-cost legal assistance.

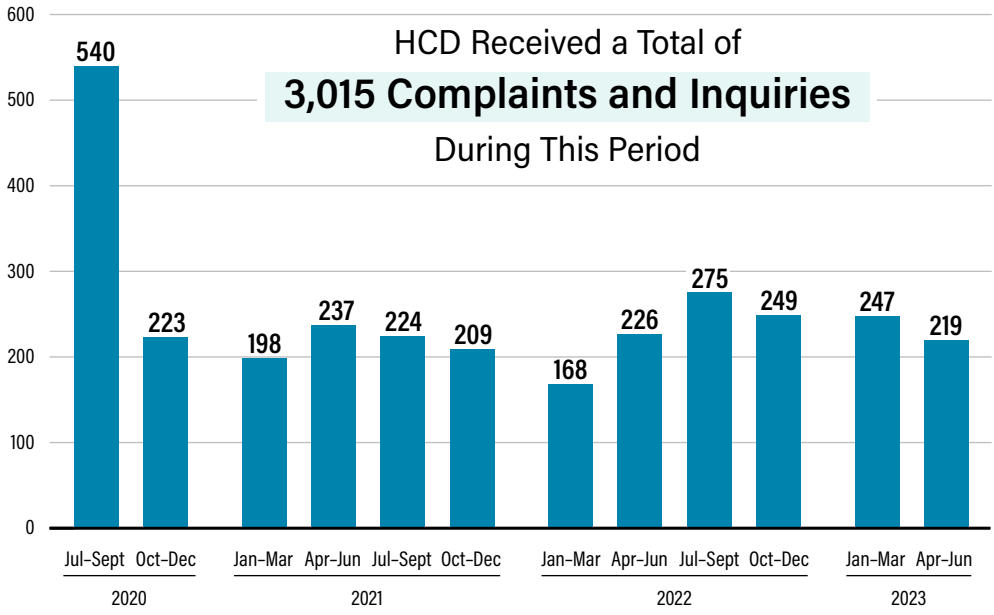
Source: State law, regulations, and HCD documents.

The Program Complaint Process and HCD Oversight

According to state law and HCD's regulations, the program is restricted to complaints submitted by homeowners that allege a residency law violation. HCD's regulations further restrict the program to complaints that allege a violation that occurred no more than 18 months before HCD's receipt of the complaint. In this report, we call these *eligible complaints*. If a complaint alleges violations of a law other than the residency law, HCD's regulations require it to refer the complaint to other relevant entities.[2] For example, HCD could refer a complaint related to criminal activity to a law enforcement agency.

Homeowners may submit their complaints through U.S. mail or through an online portal on HCD's website. HCD staff create and record complaint data in the Codes and Standards Automated System (CASAS). State law required HCD to begin accepting complaints on July 1, 2020. From that date through June 30, 2023, HCD's data show that the program received a total of 3,015 complaints and inquiries about the program.[3] Figure 2 shows that quarterly activity has been relatively consistent after a large surge during the program's first three months.

Figure 2
Program Complaints and Inquiries to HCD Have Remained Consistent After an Initial Surge



Source: HCD's CASAS database and state law.

Note: Although state law required HCD to begin collecting the program registration fee in January 2019, it did not require HCD to accept complaints until July 2020.

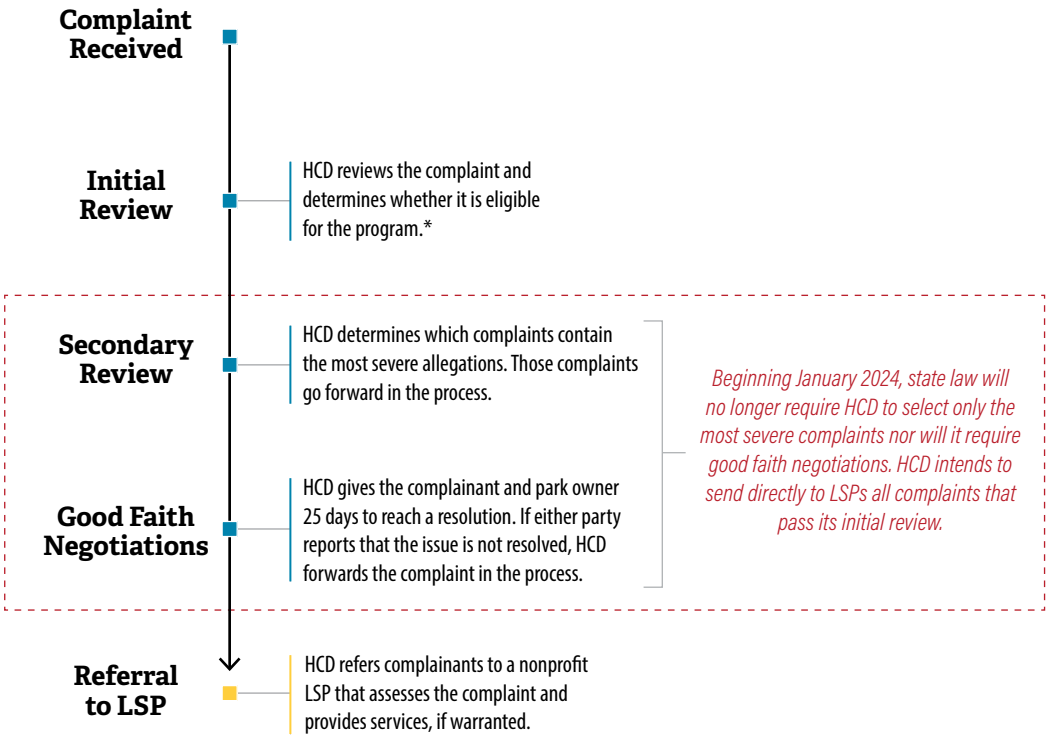
HCD's CASAS data do not distinguish between complaints and inquiries submitted to the program, an issue we describe in more detail beginning on page 13. Consequently, the totals in this figure overstate the number of actual complaints.

[2] Certain complaints may involve issues that are within HCD's jurisdiction as a department but which the program is not designed to address. In such cases, HCD is required by its regulations to make a referral to the appropriate division within itself.

[3] Later in this report we describe our concern that HCD's data do not accurately represent the number of complaints it received. Nonetheless, HCD's data are the best available source of information about complaint levels, and therefore we relied on the data for the purposes of this report.

HCD's complaint review and referral process is intended to identify eligible complaints, assess their severity, and coordinate the resolution of the most severe complaints. Figure 3 shows an overview of HCD's current process. After it determines that a complaint is eligible, HCD conducts a secondary review process. The purpose of the secondary review is to meet state law and regulation's requirement that HCD select for further assistance only "the most severe, deleterious, and materially and economically impactful" (most severe) alleged violations of the residency law.[4] During secondary review, HCD's staff use a scoring rubric to assess whether complaints meet this threshold. The rubric guides staff to consider various factors related to the complaint, such as the potential harm, injury, or damage that could occur and the probability that it will occur. The rubric directs staff to consider both the physical harm a complainant could sustain and also the harm to the complainant's mental health. As examples of harmful situations, the rubric includes problems that lead to power outages or sewage overflow.

Figure 3
HCD's Process for Evaluating Complaints Includes Multiple Stages of Review


Complaint Received
Initial Review
HCD reviews the complaint and determines whether it is eligible for the program.*
Secondary Review
HCD determines which complaints contain the most severe allegations. Those complaints go forward in the process.
Good Faith Negotiations
HCD gives the complainant and park owner 25 days to reach a resolution. If either party reports that the issue is not resolved, HCD forwards the complaint in the process.
Beginning January 2024, state law will no longer require HCD to select only the most severe complaints nor will it require good faith negotiations. HCD intends to send directly to LSPs all complaints that pass its initial review.
Referral to LSP
HCD refers complainants to a nonprofit LSP that assesses the complaint and provides services, if warranted.

Source: State law, regulations, and HCD's procedure document.

Note: Generally, for any complaint involving an issue over which HCD has jurisdiction, HCD allows complainants to reopen complaints for further consideration after HCD has closed them at any stage in the complaint process, and we observed that HCD does so when complainants ask for such a review.

* According to state law, the program is restricted to complaints submitted by homeowners that allege a residency law violation. In addition, HCD's regulations require HCD to reject a complaint if the alleged violation occurred more than 18 months before HCD's receipt of the complaint.

[4] Beginning in January 2024, HCD will no longer be required to identify the most severe complaints, making the current form of its secondary review irrelevant.

If, after performing a secondary review, HCD determines that a complaint's allegations are not among the most severe, the department closes the complaint and provides the complainant with a letter explaining its decision. In contrast, if HCD determines that the complaint's allegations are among the most severe, state law currently requires the department to notify the complainant and the park owner that they are required to negotiate in good faith in an attempt to resolve the complaint within 25 calendar days. If, after that period, either party reports to HCD that the complaint is not resolved, the department refers the complaint to an LSP.

HCD's Contracts With LSPs

Beginning in July 2020, state law required HCD to contract with one or more qualified and experienced nonprofit LSPs and to refer to the LSPs for possible enforcement action those complaints that have not been resolved during good faith negotiations. State law requires that HCD contract only with LSPs that have experience handling complaints, disputes, or matters related to the residency law or to landlord-tenancy law; experience representing individuals in dispute resolution or state court proceedings and appeals; and sufficient staff and financial ability to provide legal services to homeowners. HCD holds contracts with eight LSPs, each assigned to its own geographic territory; collectively, those contracts total $3 million per year. Each of the LSP contracts are scheduled to end during 2024, and each contains a provision to extend the contract one additional year. HCD confirmed that it is in the process of extending each of the eight LSP contracts one year, to ensure coverage beyond 2024.

State regulations require LSPs to determine whether the complainant is eligible for legal services under the program's regulations and the terms of the contract agreement. The contracts also require the eligibility review to encompass the requirements of the state law that created the program. In addition, the contracts require the LSPs to determine a course of legal action that is based upon the merits of the alleged residency law violation and the available resources. State law grants an LSP sole authority, based on the resources provided to it pursuant to its contract, to determine which referred complaints it will pursue. LSPs have closed complaints because of a determination that the complaint does not include a violation of the residency law or because the complainant does not respond to the LSP's inquiries. State regulations provide examples of the actions that LSPs may take to assist complainants, including conferring with park owners or initiating judicial or administrative actions to resolve the complaint. Those regulations also specify that if an LSP determines at any point after the acceptance of a case that no further legal action is necessary or appropriate, the LSP must provide the complainant with referrals to alternative resources to allow the complainant to further pursue remedies for the alleged violation.

Upcoming Changes to State Law

In October 2023, the Governor signed Assembly Bill 318, which changes portions of state law that govern the program. Among the changes that take effect on January 1, 2024, is the extension of the program for an additional three years; originally scheduled to end on January 1, 2024, the program will now sunset on January 1, 2027. The bill also makes

significant changes to HCD's administration of the program. Those changes, presented in Figure 3, mean that the law will no longer require HCD to select the most severe allegations—which HCD presently does through its secondary review—and will no longer require good faith negotiations between the complainant and the mobilehome park owner before HCD refers a complaint to an LSP. As a result, HCD expects that it will begin referring to LSPs all complaints that it determines are eligible.

As the Program Changes, HCD Must Improve Its Program Oversight

Key Points

- HCD faces a significant barrier to effective program oversight. Unless waived by a complainant, attorney-related privileges prevent LSPs from sharing confidential information with HCD about the services they provide to complainants. Without a waiver, LSPs cannot share with HCD certain information about complaints that HCD would need to monitor the progress of work under the LSP contracts.
- HCD did not stop some LSPs from inappropriately denying services to complainants. Three LSPs—which together handled about 60 percent of all complaints that HCD referred for services as of June 2023—have used inappropriate criteria to screen the complainants that HCD refers for services. From July 2021 through June 2023, these LSPs denied services to 18 complainants because the complainants exceeded certain income thresholds or would not answer questions about their income, even though the program has no income eligibility requirement.
- HCD has not maintained program data in a manner that would allow it to easily identify the total number of complaints and the number of those complaints that merited secondary review, or identify uniform information about the outcomes of complaints. Because it did not accurately track complaint outcomes, HCD reported inaccurate information to the Legislature.

HCD Faces a Significant Barrier to Effective Oversight of LSPs

Beginning on January 1, 2024, changes to state law will reduce HCD's role in evaluating complaints and, in response, HCD expects that it will send all eligible complaints to LSPs. Combined, these changes mean that LSPs, rather than state employees, will be responsible for the screening and prioritization of all eligible complaints. As the contract manager, HCD has the responsibility to ensure that the LSPs are providing effective service to complainants. The *State Contracting Manual* explains the responsibilities of contract managers, among which are the two responsibilities the text box presents: monitoring progress and reviewing invoices. By fulfilling these responsibilities, HCD can ensure that it is effectively overseeing the LSPs as they provide services to complainants.

Selected Responsibilities of a Contract Manager

- **Monitor progress** of work to ensure that services are performed according to the quality, quantity, objectives, time frames, and manner specified in the contract. Usually done by reviewing progress reports and interim products.
- **Review invoices** to verify that work performed and costs claimed are in accordance with the contract.

Source: *State Contracting Manual.*

Examples of Information That Falls Within the Attorney-Related Privileges

Attorney-Client Communications Privilege

- Conversations with the client
- Written communications with the client

Attorney-Work Product Privilege

- Research and investigations
- Legal theories and case strategies, including attorney impressions
- Hours worked on a case

Source: State law and case law.

However, HCD is prevented from effectively evaluating the quality and quantity of work—as may be evidenced by a review of a file or of invoices—because of the confidentiality requirements of the attorney-related privileges. Attorney-related privileges protect both information shared between an attorney and their client, as well as an attorney's legal work on a case that includes the attorney's impressions, conclusions, opinions, or legal research or strategies. In the case of the program, the attorney-related privileges prevent the LSPs from sharing confidential information with HCD about the services they provide to a complainant without first obtaining a waiver from the complainant. The text box provides examples of the type of information LSPs cannot share with HCD.

Therefore, attorney-related privileges can prevent HCD from knowing certain information, such as the information described in the text box, about complaints that it would need to monitor the progress of work under the LSP contracts. For example, the contracts HCD holds with each LSP require the LSP to provide services to complainants, including, "[providing] legal advice." Because of the attorney-related privileges, LSPs cannot, without a waiver, share with HCD how they have or have not performed work under this contract provision. Similarly, the LSPs are prohibited from sharing with HCD the details of the conversations they have had with the complainant. These examples illustrate how the attorney-related privileges restrict HCD's ability to fulfill its responsibility to monitor the LSPs' work. The effect of these privileges is that they generally prohibit HCD from validating that LSPs actually performed work under the contract.

HCD is also hindered from performing invoice reviews in alignment with the requirements of the *State Contracting Manual*. Attorney-related privilege protections constrain the details that the LSPs can share when billing HCD for the services the LSPs provide on open complaints, including restrictions on the descriptions of the work performed, an element that is necessary for HCD to consider when assessing whether to pay the LSP. We reviewed invoices from five LSPs for fiscal years 2021–22 and 2022–23. The invoices from four of these LSPs generally contained no information about the services provided and merely reported the complaint number and number of hours the LSP worked on the complaints. Missing from these invoices was a description of the work performed that would allow HCD to determine whether the work was in the scope of the LSPs' contractual responsibilities or whether the LSP was billing for other activities unrelated to the program. The invoice from the fifth LSP provided only limited details about the actions the LSP had taken, such as broad terms that stated "*correspondence*" or "*legal research*." If HCD were permitted to view documentation that such correspondence and research occurred, then this level of detail in an invoice might be sufficient for it to perform its oversight responsibilities. However, without a waiver, attorney-related privileges prohibit the LSP from sharing this information with HCD.

HCD has acknowledged this barrier to its oversight but has not taken steps to work around these limitations. When we asked about HCD's oversight of LSP performance, HCD's Assistant Deputy Director of Codes and Standards (assistant deputy director) cited the attorney-client relationship that the LSP and complainant form as a barrier to further oversight. Although we acknowledge that HCD faces challenges in monitoring LSPs' performances, we believe that HCD could take action that, in a limited fashion, would allow it to monitor LSP performance and compensate for the restrictions that the attorney-related privileges place on monitoring.

Specifically, HCD could survey or regularly contact complainants to assess the progress of their complaint and determine their satisfaction with the LSP's services. The attorney-related privileges are held by the client, meaning that the client can choose what information will be disclosed to third parties. Therefore, HCD could approach complainants and ask them to voluntarily share information about the assistance they have received from LSPs. Doing so could provide valuable insight into whether or not LSPs are providing services. For example, a complainant might report not having heard from the LSP for several months and being unaware of any reasons for the lack of communication. HCD could then track whether other complainants report similar concerns with the same LSP and, if warranted, raise the issue with the LSP as a performance concern. The assistant deputy director confirmed that HCD does not have a process to survey complainants about their experiences with LSPs, but she agreed that a complainant survey would benefit HCD and provide information regarding complainants' perspectives and experiences with the LSPs.

Another step HCD could take to help monitor the LSPs is to amend the LSP contracts and require the LSPs to provide the complainants copies of invoices specific to their complaints. This action would provide the complainants an opportunity to review and evaluate whether the hours charged appear reasonable and consistent with the complainants' understanding of the case and their involvement with the LSP. The complainants could then alert HCD of any concerns regarding the appropriateness of the LSP invoice.

To help improve HCD's oversight of the LSPs, the Legislature could take action to provide HCD with greater authority and, by doing so, address the impediment of the attorney-related privileges. By amending state law, the Legislature could grant HCD access to information, including the frequency of the LSPs' communications with the complainant and the LSPs' impression of complaints, which is protected by the attorney-related privileges. The Legislature could also grant this access in a way that such access would not constitute a waiver of the attorney-related privileges. Such access would allow HCD to receive detailed information—including the information described earlier in the text box—about the status of complaints that it refers to LSPs, allowing HCD to fully oversee the LSPs' performances while still protecting the complainants' attorney-client relationships. In light of the increased number of referrals that HCD will likely send to LSPs starting in January 2024, it would be prudent for the Legislature to fully authorize HCD to conduct the oversight activities that will best ensure that homeowners are receiving the services that the program is supposed to provide.

HCD Did Not Stop Some LSPs From Inappropriately Denying Services to Complainants

Three LSPs used inappropriate criteria to screen the complainants that HCD referred and incorrectly denied services to some complainants because of these criteria. From July 2021 through June 2023, these LSPs denied services to 18 complainants—out of the 275 total complaints HCD referred to these three LSPs—because the complainants exceeded certain income thresholds or would not agree to answer questions about their income during the LSPs' intake processes. These justifications for the denials are beyond the requirements established by the state law that governs the program and the program regulations, neither of which contain any income-based eligibility requirements. Therefore, the LSPs denied complainants services for an inappropriate reason.

HCD had opportunities to notice that LSPs were inappropriately denying services, but it did not take immediate action to address the situation. The earliest income-based denial we identified dated from an LSP referral in June 2021, when one of the LSPs reported in July 2021 to HCD that it would not provide services to a complainant because the complainant's income was too high. In that notification, HCD had the information it needed to notice that the LSP's reason for denying services was inappropriate and to clarify for all LSPs that a complainant's income is not a criterion for denying services.

However, HCD did not take any action until early 2023, when, according to HCD's assistant deputy director, HCD observed that some LSPs had reported in notes that they had denied services to complainants based on the complainants' income. The agendas for HCD's quarterly forums with LSPs show that in July 2023, the department informed the LSPs that the program complaints that HCD refers to them do not have income eligibility restrictions. As additional evidence that it had addressed the issue, the department provided us with its correspondence with two LSPs in June and July of 2023. These emails show that HCD informed two LSPs that the program does not have income limitations. One of the emails also corroborates our conclusion that HCD did not immediately act to address the issue. In an email to the assistant deputy director in June 2023, one of the LSPs wrote that income-based screenings had been the subject of a November 2021 meeting between the LSP and HCD. The LSP also noted that HCD had never previously objected to the LSP's practice.

Even when HCD did address LSPs' inappropriate denial of services, the department remained unaware of all instances of these denials. In response to our inquiry of how often these denials had occurred, HCD provided us with a list of 10 complaints that it found LSPs had rejected because the LSP had determined that the complainant's income made them ineligible for services. However, our review of the CASAS data for the more than 400 complaints that HCD referred to LSPs discovered eight additional complaints LSPs denied because of the complainant's income or their refusal to answer questions about income. To identify these complaints, we used key words related to eligibility to search the text of the updates that LSPs had provided to HCD. Because our search depended on LSPs using certain terms to describe their reasons for denying services, it is possible that there are even more income-based denials than those our search revealed.

Some of the complainants eventually received services from the LSPs. In four instances, the LSPs informed HCD that they had eventually served the complainant. One of these instances occurred after the LSP increased the income threshold that it applied during its intake processes. For the remaining 14 complaints, HCD asked the LSPs to contact the complainants and offer to provide services. The LSPs reported to HCD that eight of these cases were re-opened or in the process of being re-opened due to this effort.

Requiring complainants to give information unrelated to program requirements before providing services places a barrier between the complainant and the services for which they are eligible. Each of these LSPs suggested in its communication with HCD that screening complainants based on income was a standard intake practice not exclusive to the 18 complaints we discuss in this report. One of the LSPs told HCD that it also asked complainants to submit information about household size, household assets, and the names of adults living at the property. However, none of this information is related to any of the program's eligibility requirements. It is concerning that LSPs serving 60 percent of all referred complaints would place extraneous requirements on complainants as a prerequisite to providing them services. In fact, after HCD directed it to reach out to previously denied complainants, one of the three LSPs continued to ask complainants for income information despite HCD's June 2023 guidance that income was not a basis for denying services to a complainant. In email correspondence from November 2023, the LSP reported that it rejected two complainants because they still did not want to provide income information. The assistant deputy director agreed that making the complainants answer nonprogram-related eligibility questions as a requirement for receiving program services is unnecessary. She further stated that HCD would continue to educate and guide the LSPs in this area.

More Effective Data Management Practices Will Help HCD Improve Program Oversight

HCD has not maintained program data in a manner that allows it to easily identify the total number of complaints it received, determine the number of those complaints that merited secondary review, or identify uniform information about the outcomes of complaints. State law required HCD to report program data to the Legislature in January 2023, including the total number of complaint allegations received and, to the extent possible, the outcomes of complaints, among other reporting requirements.[5]

However, our analysis found the program data in CASAS is unreliable for reporting to the Legislature and also for determining some of the information that the Legislature asked us to provide as part of this audit. HCD's data are deficient because the data cannot be used to produce accurate counts of complaints and because the data do not contain uniform information about the outcomes of complaints. For example, the data include only free-form notes from analysts about the outcomes of complaints, so that one complaint might be closed due to "no response received from complainant" while another is because of "no response to email or phone calls." Although these are two complaints closed for presumably the same reason, the data do not allow HCD to easily summarize that they were both closed because of a lack of communication from the complainant.

[5] Changes to state law that will take effect in January 2024 require HCD to report the same information to the Legislature and the Governor as part of its annual department report due on or before December 31 each year.

Nonetheless, these data comprise the best available source of information about the entire population of complaints that the program received. We therefore present in Figure 4 the information from those data, but we have noted where we have concerns about their quality.

We were unable to use HCD's CASAS data to reliably determine the number of complaints that HCD received because HCD does not track eligible complaints separately from simple inquiries about the program. For example, an individual may call HCD to complain about an alleged residency law violation, or an individual may call asking for more details about the residency law but not wishing to file a complaint at the time. HCD logs both of these types of calls the same way in CASAS, so the only way to distinguish complaints from inquiries would be to read the narrative added to CASAS by HCD's analysts on each of the 3,015 items individually. As a result, the 3,015 complaints that Figure 4 shows is an overstated number that includes inquiries. HCD's senior program manager explained that she believed HCD had no purpose for tracking complaints and inquiries separately. We disagree. Tracking eligible complaints submitted by homeowners is the only way HCD can comply with its statutory reporting requirements to the Legislature and would benefit HCD as it manages the program. For example, having an accurate understanding of complaint levels would allow HCD to better plan its use of staff resources.

Similarly, we could not accurately determine the number of complaints that HCD forwarded to secondary review because HCD's process for tracking such complaints is unreliable. Although HCD tracks information related to complaints in the CASAS database, the department does not use this same database to track secondary reviews. The assistant deputy director, who was not in her position when the program started, indicated that HCD may have lacked the time needed to establish secondary review functions in CASAS due to the timing of the department's establishment of regulations and the initial receipt of complaints, which were separated by only a week. Instead, HCD uses spreadsheets external to CASAS to track complaints that it forwards for secondary review. HCD relies on its staff to log this information on these spreadsheets. Because CASAS does not include information about secondary reviews, these spreadsheets are the only source for determining how many complaints HCD processed through secondary review. However, when we compared the complaint activity recorded in CASAS to these spreadsheets, we identified more than 45 complaints that were missing from the spreadsheets.[6] When we asked why complaints were missing, the former program manager cited human error. These inaccuracies affect the precision of the information in Figure 4. Nonetheless, there is no need for HCD to take action to better account for complaints that reach secondary review. Beginning in January 2024, HCD will no longer be responsible for identifying the most severe alleged violations, which is the purpose of secondary reviews.

[6] We identified the missing complaints by isolating complaints in CASAS with recorded activities, such as good faith negotiations, that could only occur when a complaint had been through secondary review, and also by searching the narrative text fields for the word *secondary*. Accordingly, the actual number of complaints missing from the spreadsheets may be greater than the number we identified.

Figure 4
HCD Closes Most Complaints and Inquiries After Its Initial Review

Source: HCD CASAS data, as of August 14, 2023, on complaints received from July 2020 through June 2023.

* HCD's process for tracking the number of complaints that it forwarded to secondary review is unreliable and affects the precision of this information.

HCD should take action to address another deficiency in its data: HCD's complaint outcome information is not recorded in a uniform manner. HCD's current practices impede its review of complaint outcomes and undermine the accuracy of the data the department reports to the Legislature. HCD maintains complaint outcome information in a narrative format in CASAS, yet there is no consistency to the way staff enter the outcome information, such as using common identifiers for the resolution of complaints. Therefore, according to the senior program manager, to review information about complaint outcomes, HCD must review each complaint and read the accompanying narrative individually to determine the complaint's outcome rather than being able to review and rely on summary-level information. The senior program manager confirmed that program management manually reviewed each of the more than 2,000 complaint narratives and assigned it an outcome to produce a March 2023 report to the Legislature on program outcomes.

In the absence of uniform data in CASAS on complaint outcomes, we are unable to reliably report on all of these outcomes. We considered using the data HCD compiled during the manual review it performed for its report to the Legislature, but we determined that the data had errors and were unreliable. From the data HCD compiled for its legislative report, we reviewed 65 complaints and identified in nine of the complaints that the assigned outcome did not match the narrative description of the complaint resolution in CASAS. Five of these nine complaint outcome errors resulted from HCD's stating in its legislative report that the complainants had asked HCD to close their complaints, yet the notes HCD recorded in CASAS make it clear that no complaint existed and that individuals simply made an inquiry to HCD. For example, in one instance, an individual contacted HCD to ask for information about the $10 program fee, which HCD provided. Instead of characterizing this instance as an inquiry, HCD reported to the Legislature that it was a complaint closed at the request of a complainant. HCD's senior program manager explained that she believed HCD had chosen the closest applicable outcome category in each of these instances. However, HCD itself defined these outcome categories and could have created an additional category for inquiries that were distinct from complaints.

Lacking reliable data that we could use to answer the Legislature's questions regarding complaint outcomes, we reviewed a selection of 30 complaints or inquiries that closed at certain stages in HCD's complaint process to determine why they were closed at each stage. As Table 1 shows, the complainants were often not responsive to communications from HCD or the LSPs. In particular, 57 percent of complaints were closed at the good-faith negotiations phase because the complainant did not respond to HCD. The assistant deputy director explained that the good-faith negotiations process requires homeowners to negotiate with park owners, and that process may be stressful or intimidating for the homeowners and cause them to not respond to communications from the department. However, recent changes to state law remove the good-faith negotiations process, and the assistant deputy director believed this removal may alleviate homeowners' concerns with participating in the program's complaint process.

Table 1
Complaint Outcomes Vary at the Different Stages of the Complaint Review Process

COMPLAINT OUTCOMES	FREQUENCY OF OUTCOMES	PERCENTAGE OF OUTCOMES*
Initial Review		
No response or unable to reach complainant during intake	15	50%
HCD did not have jurisdiction	7	23
Complainant requested complaint be closed	4	13
Inquiry only (not a complaint)	2	7
Closed anonymous complaint	1	3
Resolved during documentation request	1	3
Total	**30**	**100%**
Secondary Review		
Not selected as the most severe	25	83%
HCD did not have jurisdiction	5	17
Total	**30**	**100%**
Good Faith Negotiations		
No response from complainant	17	57%
Resolved during good faith negotiations	6	20
Complainant requested complaint be closed	5	17
HCD did not have jurisdiction	1	3
Duplicate complaint	1	3
Total	**30**	**100%**
Legal Service Providers		
LSP provided counsel and advice	16	53%
No response from complainant	6	20
LSP determined there are no viable causes of action	3	10
Complainant no longer needed assistance	2	7
LSP denied services	2	7
Complainant declined services	1	3
Total	**30**	**100%**

Source: HCD CASAS data, as of August 14, 2023, and supporting documents for complaints received from July 2020 through June 2023.

Note: For details pertaining to our selection of the 30 items we reviewed for each complaint outcome stage, refer to the methods for Audit Objectives 2 and 3 in the table on page 29.

* Percentages will not always total to 100 due to rounding.

In the future, HCD would benefit from having accurate and easily retrievable data on complaint outcomes. For example, if HCD could distinguish program inquiries from complaints, it would be able to accurately report on its complaint volume. Access to consistent and reliable information about the outcome of complaints would allow HCD to evaluate the program's operations. For example, if a large portion of the complaints were closed because of the complainant's unresponsiveness, HCD could then consider how it might improve its outreach and communication to complainants. Similarly, although state law governing the program does not require HCD to report on inquiries about the program, if HCD could easily isolate inquiries from complaints, the department could then review the nature of those inquiries to assess whether it could improve its communication to homeowners about the program.

Recommendations

Legislature

To ensure that HCD is able to effectively monitor the LSPs with which it contracts, the Legislature should amend state law to require LSPs to permit HCD, in its role as the contract manager overseeing the performance of the LSP contracts, access to confidential information—currently protected by the attorney-client communication and attorney-work product privileges—regarding the status of each case and the services provided to complainants. HCD should be prohibited from disclosing this confidential information to anyone outside of HCD. The Legislature should also specify that the LSPs providing access to HCD does not constitute a waiver of any attorney-related privileges.

HCD

To ensure that LSPs are providing complainants with timely and effective services, HCD should do the following by March 2024:

- Begin regular surveys of complainants whom it has referred to LSPs to determine whether the LSPs are in regular communication with the complainants and whether complainants have any concerns about the LSPs' services.
- Amend the LSP contracts and require the LSPs to provide complainants copies of invoices specific to their complaints.
- Monitor the updates that LSPs provide to detect any inappropriate denial of services and immediately respond to correct those denials.

HCD should adopt more effective data management practices by developing, at a minimum, the following CASAS upgrades as soon as is feasible:

- A list of outcomes that HCD staff would select from when changing a complaint's status to closed. That list should include the option to note that closure pertains to an inquiry rather than a complaint.

- The ability to automatically generate a report with the outcome information needed for HCD's annual report to the Legislature.

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In Light of a Significant Amount of Unspent Program Funds, the Legislature Should Suspend the Annual Program Fee

Key Points

- The program is funded by a $10 per lot fee paid by mobilehome park owners. HCD has generally spent program funding appropriately, but it has spent less than 40 percent of the program's revenue and has consequently accumulated an unspent balance of $8.3 million.

- To assess the appropriateness of the program's fee, we modeled different scenarios. In each scenario in which the fee remained $10, HCD's unspent fund balance grew. Suspending the fee would reduce the unspent fund balance while still allowing HCD to address complaints.

HCD's Spending Was Generally Appropriate, but It Has Used Less Than Half of the Program's Revenue

State law authorizes HCD, upon appropriation of funds by the Legislature, to spend program funds for the purpose of implementing the program. As Table 2 shows, HCD spent most of its program funds in three categories: salaries and benefits for its employees; operating costs; and LSP contracts. We reviewed these costs to determine whether HCD spent program funds appropriately. We describe our concerns about HCD's monitoring of its spending on LSPs earlier in this report. Staff salaries and benefits are the largest spending category and account for more than 40 percent of program expenditures through June 2023 despite being an overall small portion of HCD's total budgeted personnel costs (less than 1 percent). We identified the HCD staff who were authorized to charge their time to the program and compared that information against the HCD staff who had actually charged time to the program. For fiscal years 2019–20 through 2021–22, only approved individuals charged time to the program fund. During this period, the program had a staff services manager and fewer than ten staff. The program staff handled homeowners' complaints, conducted secondary reviews, and referred complainants to LSPs.

However, from September 2022 through May 2023, three HCD employees erroneously charged their time exclusively to the program, despite the fact that their positions were not exclusively dedicated to the program. In total, these charges amounted to $124,000 in costs to the program—equivalent to 17 percent of the program's salaries and benefits in fiscal year 2022–23. The branch chief over the program (program branch chief) explained that these three employees did not receive adequate training on how to complete their timesheets. In response to this situation, HCD issued a memo in June 2023 directing staff to track and record daily all their actual time spent on the program. The department also updated its new employee training to include instruction on how employees should track and report their hours. However, the

program branch chief confirmed that HCD did not try to correct the erroneous charges, because the department did not have a mechanism to determine how much time each employee actually spent working on the program. These charges were the only instances we identified of HCD's using program funds to support its other staffing costs.

Table 2
HCD Has Accumulated a Significant Amount of Unspent Funds Since the Program's Inception

TRANSACTIONS BY TYPE PER FISCAL YEAR	2018–19*	2019–20	2020–21	2021–22	2022–23	PROGRAM TOTALS
Revenue	**$850,000**	**$2,636,000**	**$3,026,000**	**$3,435,000**	**$3,491,000**	**$13,438,000**
Expenditures						
Salaries and Benefits	–	$278,000	$544,000	$715,000	$719,000	$2,257,000
Contracts, Goods, and Services†			103,000	24,000	14,000	140,000
LSP Contracts			–	258,000	667,000	925,000
Operating Costs‡	–	539,000	739,000	317,000	225,000	1,820,000
Total Expenditures		**$817,000**	**$1,387,000**	**$1,314,000**	**$1,625,000**	**$5,142,000**
Preliminary Fund Balance	$850,000	$2,669,000	$4,308,000	$6,429,000	$8,295,000	$8,295,000
Funds Committed for LSP Contracts					$(5,838,000)	$(5,838,000)
Fund Balance					**$2,457,000**	**$2,457,000**

Source: HCD financial data as of June 30, 2023. (Amounts are rounded to the nearest thousand. Totals may not agree due to rounding.)

* State law required HCD to begin collecting program fees on January 1, 2019.

† Contracts, Goods, and Services include external consulting and professional services, office supplies, information technology services/supplies, subscriptions, dues, and memberships.

‡ Operating Costs are those costs necessary for the department's operations but not directly related to the services provided. Examples of operating costs include rent, training, and administrative costs.

We determined that HCD appropriately spent program funds for operating costs, such as rent or lease payments for office space, and costs for information technology and administrative costs. We reviewed a selection of 10 transactions from operating accounts that had some of the highest expenditure amounts during fiscal years 2019–20 through 2022–23. We determined that these transactions either aligned with the program's purpose or were cases in which HCD used a federally approved cost allocation method to assign operating costs to the program. Office space for staff is an example of an expenditure we reviewed that directly supports the program. Most of the transactions we reviewed were allocations of costs that HCD indicated it derived using a federally approved cost allocation methodology. HCD's chief financial officer noted that having only one method of cost allocation is both efficient and convenient for the department. For the purposes of this audit, we consider HCD's adherence to the federal cost allocation approach even for a program

that is not federally funded to be a reasonable practice because it allows HCD to operate more efficiently. Further, although it cannot be projected to all expenditures, the average percentage of indirect costs allocated to the program among the items we reviewed was 4 percent, which is relatively low.

Although HCD's spending was appropriate for the transactions we reviewed, overall spending did not keep pace with revenue coming into the program; as a result, HCD maintained a large percentage of unspent funds. As Table 2 shows, the program had collected a total of $13.4 million in revenue but had spent a total of only $5.1 million as of June 30, 2023. Of the remaining $8.3 million, HCD had committed $5.8 million for future payments on LSP contracts and the other $2.5 million was not committed or reserved for a specific use. In total, unspent funds at the end of fiscal year 2022–23 were more than 60 percent of the revenue HCD had collected.

The accumulation of unspent funds resulted from HCD's initial estimates of the expected workload and the anticipated revenue needed for the program, which in hindsight have proven to be significantly overstated. The budget change proposal HCD created at the outset of the program indicates that HCD expected that it would need about $3.9 million in revenue annually to operate the program. In the proposal, HCD noted that it anticipated receiving an average of about 6,500 complaints annually and referring an average of nearly 4,100 complaints annually to the LSPs. However, as of the end of June 2023, the program had received an average of only 1,005 complaints annually and had referred an annual average of 147 complaints to LSPs—about 84 and 96 percent below expectations, respectively. Consequently, HCD paid only approximately $1 million to LSPs from fiscal year 2020–21 through 2022–23—a total substantially lower than the $9 million value of the LSP contracts. HCD's assistant deputy director, who was not in her current position at the time of HCD's initial estimate, explained that the complaint projections for the program were based on small claims court data that ended up being incorrect as a proxy for the program. She agreed that the initial projections were significantly too high. In the time since the initial estimates were developed, HCD has not produced any new forecasts of complaint volumes.

Recent changes to state law will likely increase referrals to LSPs, because state law will no longer require HCD to review complaints for severity and refer only the most severe complaints to the LSPs. Instead, HCD intends to refer to LSPs all complaints that it determines are eligible for the program, which are complaints submitted by homeowners alleging a residency law violation that occurred no more than 18 months before HCD's receipt of the complaint. As Figure 4 shows, from fiscal years 2020–21 through 2022–23, HCD determined that 948 complaints were eligible and forwarded them to secondary review. However, HCD referred only 441 of those complaints to an LSP. Therefore, assuming that the rate of eligible complaints holds constant, the number of complaints HCD refers to LSPs will likely more than double beginning in January 2024 when the changes to state law take effect. Accordingly, the amount payable to LSP contractors will increase and so will overall program costs unless there is a decrease to HCD's costs for resources, such as staff.

Still, these additional costs are unlikely to fully deplete the significant balance of unspent funds. HCD's assistant deputy director indicated that HCD does not have an estimate regarding the number of additional complaints it will refer to the LSPs after the changes to state law take effect. She explained that HCD does not have such estimates because there is insufficient information to create any reliable forecasts. However, the remaining balance of unspent funds would remain high even if the cost of LSP services doubled. Therefore, the issue of a high percentage of unspent funds is not likely to resolve itself without additional changes to state law to reduce the revenue HCD collects.

The Legislature Should Reduce Program Revenue by Suspending the Program Fee

Recently, the Legislature and the Governor extended the life of the program until January 2027, when it is scheduled to sunset. Until then, if there are no changes to the program's revenue, HCD will likely continue to accumulate unspent funds, which could raise questions about the appropriateness of the program's fee amount. To determine whether a change to the fee amount is warranted, we created various scenarios to model what would happen to the program's unspent fund balances under a variety of circumstances. When we developed these scenarios, we considered several factors, some of which the text box shows. For example, our scenarios incorporate assumptions that take into account the likely increase in program complaints referred to LSPs and the state employee pay increases that were approved by the Legislature in September 2023 that will result in at least a 3 percent pay raise each year for many state employees for the next three years. Table 3 details these scenarios and summarizes the different assumptions we made under each scenario.

Factors We Considered in Analyzing the Appropriateness of the Annual Program Fee

Factors Affecting Workload

- In June 2023, HCD engaged an outreach consultant to publicize the program. This outreach could result in an increase in eligible complaints.
- Recent changes to state law are likely to increase referrals to LSPs.

Factors Limiting Our Analysis

- Program data are too limited to project future trends in complaint activity.
- HCD has not projected future complaint activity or the likely effect of changes to state law on its program.

Source: Auditor analysis.

Determining which fee scenario is preferable depends on the amount of funds HCD should maintain as a reasonable reserve. The Government Finance Officers Association recommends a minimum unrestricted fund balance of no less than two months' operating expenditures at all times. However, this minimum recommended amount may not be sufficient to meet the program's needs. In particular, HCD may need to rely on funding to pay for LSP services even after the program stops accepting new complaints. The upcoming changes to state law create a scenario in which all program activity—including revenue collection—ceases in January 2027. Yet even though HCD will not be authorized to collect the program fee at that time, it is likely that there will exist some number of complaints pending resolution with LSPs. How or whether the LSPs would be compensated for their services on these complaints is not explicitly

specified in the state law governing the program. The Legislature could allow HCD to continue paying for those services with the balance of funds remaining. To do so without collecting additional revenue, HCD would likely need to have retained more than two months' expenditures in reserve. Maintaining a larger reserve would better allow HCD to administer open complaints and compensate LSPs until those complaints are fully resolved.

Table 3
Maintaining the Current $10 Program Fee Will Increase HCD's Unspent Fund Balance

	ASSUMPTIONS FOR THE PERIOD FROM JULY 2023 THROUGH DECEMBER 2026				
SCENARIO	**COMPLAINT LEVELS**	**LABOR COSTS***	**AB318 IMPACT**	**FEE AMOUNT**	**ESTIMATED UNSPENT FUNDS AS OF JANUARY 2027 (IN MILLIONS)**
Scenario 1	Increase 10 percent year over year.	Increase 3 percent annually.	LSP referrals increase as HCD plans to send all eligible complaints to LSPs, not just the most severe.	**$10**	$10.0–$12.3
Scenario 2				**$3** Beginning in FY 2024–25.	$4.2–$6.5
Scenario 3				**$0** Beginning in FY 2024–25.	$1.7–$4.0

Source: HCD program financial data, program complaint volumes, and other factors, including recent changes to state law.

* We based HCD's labor costs on the staffing levels at the time of our audit.

We believe suspending the fee would reduce the balance of unspent funds while ensuring that HCD has enough funding to effectively manage the program. As the scenarios in Table 3 demonstrate, in Scenario 1 the current $10 fee is unnecessarily high. If the fee remains at $10, the unspent fund balance will continue to grow from its June 2023 level of $8.3 million. In contrast, in Scenario 3 in which the fee amount is suspended and complaint levels rise by 10 percent each year for the remainder of the program's life, HCD would be able to continue operating the program to its sunset date and would maintain an unspent fund balance ranging from $1.7 million to $4 million.

Although we have modeled conservative scenarios in which program costs rise significantly over time, it is possible that the program will face additional costs we cannot anticipate. It could be problematic if HCD faced such costs without any new program revenue. To mitigate the effects of unanticipated costs, the Legislature could grant HCD the authority to resume the collection of the program fee in the event that its available funding drops below a certain threshold. We believe a threshold equal to six months of expenditures would provide HCD sufficient time to resume fee collection. To provide assurance that the resumption of fee collection is necessary, the Legislature could require the Department of Finance (Finance) to agree with HCD's assessment of the fund's condition before HCD can once again invoice park owners.

Suspending the fee would create a situation in which HCD's annual expenditures exceed its annual revenues. Therefore, if the Legislature considers continuing the program beyond its scheduled sunset date, it will be important for it to receive from HCD an updated recommendation in its annual report regarding a reasonable fee amount.

Recommendations

To ensure that HCD has enough funding to effectively manage the program without accumulating excessive funds, the Legislature should amend state law to do the following:

- Suspend the program's $10 per lot fee until the program's sunset date of January 1, 2027.
- Provide HCD authority to reinstate the $10 per lot fee for the duration of the program in the event HCD and Finance agree that the program fund can cover only six months of expenditures.
- Require HCD—in its annual report due on or before December 31, 2025—to report on the program's financial sustainability and justify any further revisions to the program fee.

Other Area We Reviewed

To address the audit objectives approved by the Joint Legislative Audit Committee (Audit Committee), we also reviewed HCD's process for determining which complaints are among the most severe.

HCD Did Not Consistently Document How It Determined That Some Complaints Merited Referral to an LSP

State law and regulations require HCD to select only the complaints containing the most severe allegations to proceed to good-faith negotiations for 25 days and, for complaints unresolved after 25 days, to an LSP. HCD assesses which complaints meet this threshold through its secondary review process. HCD uses a scoring rubric to determine which eligible complaints move to the next stages of its process. The rubric guides staff to consider various factors related to the complaint, such as the potential harm, injury, or damage that could occur to the complainant and the probability it will occur. Ultimately, staff assign each complaint a score that determines whether HCD will refer the complaint to good-faith negotiations and potentially to an LSP.

However, HCD did not consistently document the reasoning behind its scores. In an attempt to review the consistency of HCD's secondary review process, we reviewed 13 complaints, within which were groups of complaints that alleged violations of the same portions of the residency law. Among these groups, HCD referred some complaints to LSPs and did not refer others. On nearly all of the scoring sheets we reviewed, however, we found that HCD's analysts did not record the reasons for their determinations, and the scoring sheet template did not direct them to do so. Moreover, in some instances, complaints contained multiple allegations, yet HCD scored the complaint as a whole instead of rating each individual allegation. Scoring all allegations together obscures HCD's decision-making process since it does not require HCD to demonstrate which elements of the complaint caused it to determine that the complaint was serious enough to refer to an LSP. For these reasons, we could not assess the consistency of HCD's decision making. Yet because state law beginning January 2024 will no longer require HCD to identify the complaints with the most severe allegations—which is the purpose of the secondary review—we make no recommendation in this area.

We conducted this performance audit in accordance with generally accepted government auditing standards and under the authority vested in the California State Auditor by Government Code section 8543 et seq. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on the audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Respectfully submitted,

GRANT PARKS
California State Auditor

December 19, 2023

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Appendix

Scope and Methodology

The Audit Committee directed the California State Auditor to conduct an audit of HCD's administration of the Mobilehome Residency Law Protection Program. The table below lists the objectives that the Audit Committee approved and the methods we used to address them. Unless otherwise stated in the table or elsewhere in the report, no statements or conclusions about selections of items reviewed can be projected to the population.

Audit Objectives and the Methods Used to Address Them

	AUDIT OBJECTIVE	METHOD
1	Review and evaluate the laws, rules, and regulations significant to the audit objectives.	Reviewed and evaluated laws and regulations related to the program and to HCD's administration of the program.
2	Review the complaints HCD received from January 1, 2019, through December 31, 2022, from residents related to the residency law to determine the following: a. The total number of residency law complaints received. b. The number of residency law complaints processed. c. The number of residency law complaints that HCD found to have merit and the outcomes of those cases.	• Reviewed CASAS data to determine the total number of residency law complaints received and processed, and to determine the number of complaints that HCD found to have merit, defined as those that proceeded to good-faith negotiations. • Interviewed HCD staff regarding its complaint review process, including its process for determining the eligibility of complaints. • Because HCD did not maintain uniform complaint outcome information, we made selections of complaints or inquiries and determined their outcomes by reviewing CASAS data and supporting documents. We judgmentally selected 30 complaints or inquiries that HCD closed during initial review by choosing those that appeared, based on the complaint subject description in CASAS, to cover a variety of circumstances that HCD could face when initially receiving a complaint. We intentionally chose 14 of these 30 items from the period following August 2022, to ensure that we covered the period when HCD's revised program desk procedures were in place. Additionally, we selected 30 complaints closed after secondary review and during good-faith negotiations by applying a standard interval to a list from CASAS to provide a reasonable distribution of complaints.
3	Obtain information about the residency law cases that HCD referred to LSPs and determine the outcomes of those cases.	• Because HCD did not maintain uniform complaint outcome information, we reviewed a selection of 30 complaints that HCD forwarded to LSPs to determine the outcomes of those complaints. We selected these by applying a standard interval to a list from CASAS to provide a reasonable distribution of complaints. • Interviewed HCD staff and reviewed HCD's contracts with the LSPs to determine any policies, procedures, and practices regarding HCD's oversight and management of the complaints it referred to LSPs.

continued on next page . . .

	AUDIT OBJECTIVE	METHOD
4	Determine the amount of funds HCD has collected since the inception of the program in January 2019 and the amount of HCD's staffing budget that has been supported by the program fund.	• Reviewed financial documentation to determine the total amount of program funds collected from January 2019 through June 2023. • Observed the way HCD processed program payments and recorded payments to the program fund. • Documented the total program staffing budget and identified the HCD staff authorized to charge time to the program. Compared labor charges to the program against the staff authorized to charge to the program.
5	Evaluate the fund balance of the program fund as of December 2022 and assess the following: a. The reasons for any surpluses identified. b. Whether HCD's spending from this fund is consistent with the fund's statutory purpose. c. Whether the current fee amounts proscribed in law are appropriate relative to the fund's actual expenditures and the program's overall performance.	• Reviewed program fund financial data from January 2019 through December 2022, as well as the first six months of 2023, to determine the program fund revenue, expenditures, and encumbrances. Reviewed the program surplus, interviewed staff, and reviewed a budget change proposal to determine the reasons for the surplus. • Reviewed 10 operating expenditures and five LSP invoices, and compared those expenditures against the purpose of the program. • As described in Objective 6, modeled different scenarios to assess the appropriateness of the current program fee amount.
6	Based on the audit objectives listed above, recommend whether the program should continue in its present form, be modified, or be allowed to sunset.	• Used HCD program financial data, program complaint volumes, and other factors to forecast the surplus using different fee amounts to determine whether projected revenues would be sufficient to cover the projected expenditures and to assess the appropriateness of the program's fee. • Considered the Legislature's recent actions through Assembly Bill 318 to amend the program and extend its sunset date by an additional three years, until January 1, 2027.
7	Review and assess any other issues that are significant to the audit.	No other areas reviewed.

Source: Audit workpapers.

Assessment of Data Reliability

The U.S. Government Accountability Office, whose standards we are statutorily obligated to follow, requires us to assess the sufficiency and appropriateness of the computer-processed information that we use to support our findings, conclusions, or recommendations. In performing this audit, we relied on electronic data files that we obtained from CASAS to address several audit objectives and to select complaints for further review as noted in the table. As we note in the report, we found significant problems with the data from CASAS, which were often unreliable for our purposes. Accordingly, we found the data to be not sufficiently reliable for our purposes. However, the data were the best available source of information on program complaints. Therefore, we present the data in our report and also explain their limitations. Despite the limitations of the data, there is overall sufficient and appropriate evidence to support our findings, conclusions, and recommendations.

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GAVIN NEWSOM, Governor

December 1, 2023

Grant Parks, State Auditor *
California State Auditor
621 Capitol Mall, Suite 1200
Sacramento, CA 95814

RE: The Mobilehome Residency Law Protection Program (MRLPP) The California Department of Housing and Community Development Must Improve Its Oversight of the Program

Dear Grant Parks:

Thank you for the opportunity to review and provide comments to the audit titled The Mobilehome Residency Law Protection Program (MRLPP) The California Department of Housing and Community Development Must Improve Its Oversight of the Program. HCD generally concurs with the HCD recommendations and will take appropriate steps to implement the recommendations provided by the California State Auditor (CSA) where feasible. However, HCD has significant concerns with the CSA recommendation to the legislature to eliminate all new program revenue. ①

The MRLPP is a pilot program enacted by AB 3066 (Chapter 774, Statutes of 2018), operative as of January 1, 2019. Upon appropriation of program resources, the program was stood-up in earnest in July 2020 and will soon be undergoing significant programmatic changes due to recent legislative changes pursuant to AB 318 (Chapter 736, Statutes of 2023). As a result of these changes, historical data cannot be used to estimate the number of future complaints or revenue needed to support program expenditures. Accordingly, it would be both premature and fiscally irresponsible to suggest such radical changes to program funding. ①

HCD agrees that it is appropriate to analyze if the statutory fee should be adjusted to reflect the ongoing needs of the program, but strongly suggests that a reasonable fee remain in place until after the program modifications are complete and the new complaint volume, LSP workload/expenses and program outreach efforts are realized. Additionally, elimination of the current $10.00 per lot fee while simultaneously suggesting that HCD should request a new fee to be set by the legislature prior to current fund depletion would place an unreasonable burden on HCD by hindering their ability to administer the program given the uncertainty of expenditure authority, the ability to enter contracts, and the long-term viability of the program. The consequence of simultaneously suspending and/or eliminating program revenue at the same time as program expansion increases the likelihood that the program would need to cease operation prior to the new statutorily authorized sunset date of January 1, 2027. ①

* California State Auditor's comments appear on page 35.

Grant Parks, State Auditor
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Responses to HCD specific recommendations are below.

Recommendation 1: Begin regular surveys of complainants whom HCD has referred to legal service providers (LSP) to determine whether the LSPs are in regular communication with the complainant and whether complainants have any concerns about the LSPs' services.

- HCD Response: HCD will implement regular customer satisfaction surveys as recommended by CSA.

Recommendation 2: Amend LSP contracts and require the LSPs to provide complainants copies of invoices specific to their complaints.

- HCD Response: Current LSP contracts expire in 2024 and HCD is taking action to extend current contracts by one-year to provide continuity of services while soliciting new legal service contracts through 2027. Current contracts allow amendments of up to one-year extensions; amendments expanding the scope of work of the contracts would require solicitation of new contracts and would result in a lapse of service to complainants. HCD will consider adding the provision requiring LSPs to provide complainants copies of invoices specific to their complaints into the solicitation package of future contracts. ②

Recommendation 3: Monitor the updates that LSPs provide [to HCD] to detect any inappropriate denial of services and immediately respond to correct those denials.

- HCD Response: HCD will review previously provided LSP complaint updates and outcomes for any inappropriate denial of services and address those denials with the complainant and the LSP. Additionally, HCD will develop policies and procedures to monitor LSP updates to detect inappropriate denial of service and respond to correct such denials.

Recommendations 4 and 5:
Adopt more effective data management practices by developing, at a minimum, the following CASAS database upgrades as soon as feasible:

4. A list of outcomes that HCD staff would select from when changing a complaint's status to closed. That list should include the option to note that the closure pertains to an inquiry rather than a complaint.

- HCD Response: HCD will update the CASAS database and/or documentation of program contacts to include a list of outcomes that differentiate between inquiries and complaints.

5. The ability to automatically generate a report with the outcome information needed for HCD's annual report to the Legislature.

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- HCD Response: HCD will update CASAS as recommended by the CSA to automatically generate a report with the outcome information needed for HCD's annual report to the Legislature.

Thank you for the opportunity to provide a response to this audit.

Sincerely,

Gustavo Velasquez
Director

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Comments

CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

To provide clarity and perspective, we are commenting on HCD's response to our audit. The numbers below correspond to the numbers we have placed in the margin of its response.

We disagree with HCD's assertion that our recommendation to suspend the program's $10 fee is premature and fiscally irresponsible. As our report states on page 5, state law required HCD to begin accepting complaints in July 2020—meaning that the program has been operating for more than three years. As Table 2 on page 22 shows, HCD's annual expenditures for the program have never exceeded $1.7 million, and it accumulated $8.3 million in unspent funds as of June 30, 2023. In our view, it is fiscally irresponsible to continue amassing unspent funds by collecting a fee that, as we report on page 23, was designed based on significantly overestimated complaint levels. In Scenario 3 of Table 3 on page 25, we show our estimate that suspending the fee from fiscal year 2024–25 through the program's sunset date in January 2027—a period of two-and-a-half years—would leave HCD with $1.7 million to $4 million in reserve. To mitigate the effects of unanticipated costs, we recommended on page 26 that the Legislature provide HCD the authority to reinstate the $10 fee for the duration of the program in the event it and Finance agree that the program fund can cover only six months of expenditures. Finally, the long-term viability of the program is not at issue. Rather, the Legislature has authorized the program to exist until January 1, 2027, and our recommendation would allow the program to continue operating until that time. (1)

HCD asserts that expanding the scope of current LSP contracts to provide complainant's copies of invoices specific to their complaints would require solicitation of new contracts and result in lapse of service to complainants. We disagree and believe that HCD can seek to amend its existing contracts. Although we recognize that any amendment to the contracts will require the consent of the LSPs, we note that the contracts specifically allow for amendments so long as the amendments comply with the *State Contracting Manual* (SCM). The SCM permits amendments to contracts as long as the amendment complies with specific criteria, such as occurring before the expiration of the original contract and, in some cases, receiving approval from the Department of General Services, among other requirements. We look forward to reviewing HCD's progress implementing this recommendation as it updates us at the 60-day, six-month, and one-year follow-up intervals. (2)